

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

THE MCPHERSON BUILDING

901 FIFTEENTH STREET, N.W., SUITE 1100

WASHINGTON, D.C. 20005-2327

(202) 682-3500

FACSIMILE
(202) 682-3580

425 PARK AVENUE
NEW YORK, NY 10022-3598
(212) 836-8000

1999 AVENUE OF THE STARS
SUITE 1600
LOS ANGELES, CA 90067-6048
(310) 788-1000

WRITER'S DIRECT DIAL NUMBER

(202) 682-3526
(Internet E-Mail Address
irvg@netcom.com)

18TH FLOOR
NINE QUEEN'S ROAD CENTRAL
HONG KONG
(852) 845-8989

SCITE TOWER, SUITE 708
22 JIANGUOMENWAI DAJIE
BEIJING
PEOPLE'S REPUBLIC OF CHINA
(861) 512-4755

FACSIMILE
NEW YORK (212) 836-8689
WASHINGTON (202) 682-3580
LOS ANGELES (310) 788-1200
HONG KONG (852) 845-3682
BEIJING (852) 845-2389
(861) 512-4760

RECEIVED

August 10, 1995

AUG 10 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: MM Docket No. 95-88
(RM-8641)
Amendment of The FM Table
of Allotments
(Rose Hill and Trenton,
North Carolina)

Dear Mr. Caton:

Submitted herewith for filing, on behalf of our client, W & B Media, Inc., licensee of Radio Station WSFL-FM, New Bern, North Carolina, are an original and four copies of its Comments in the above-referenced FM channel allotment rulemaking proceeding. These Comments are being filed with the Commission pursuant to the Mass Media Bureau's Notice of Proposed Rule Making in MM Docket No. 95-88, __ FCC Rcd __, DA 95-1277 (Mass Media Bureau, Policy and Rules Division, Allocations Branch, released June 19, 1995).

049

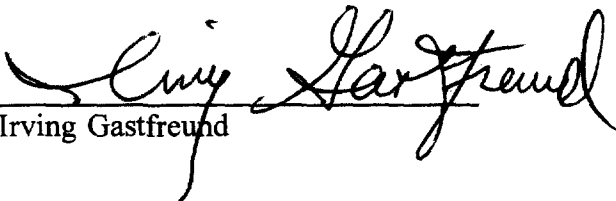
KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

Mr. William F. Caton
August 10, 1995
Page 2

Please direct any inquiries concerning this submission to the undersigned.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS &
HANDLER

By: 
Irving Gastfreund

Enclosures

cc: As on Certificate of Service
attached to enclosed Comments.

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

AUG 10 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
By Broadcast Stations

(Rose Hill and Trenton, North
Carolina)

)
)
) MM Docket No. 95-88
) RM-8641
)
)
)

To: Chief, Policy and Rules Division,
Mass Media Bureau
(Allocations Branch)

DOCKET FILE COPY ORIGINAL

COMMENTS OF W & B MEDIA, INC.

Irving Gastfreund, Esq.

Kaye, Scholer, Fierman, Hays &
Handler
901 15th Street, N.W., Suite 1100
Washington, D.C. 20005
(202) 682-3526

Counsel for W & B Media, Inc.

August 10, 1995

Table of Contents

	<u>Page</u>
Table of Contents.....	i
Summary.....	ii
I. Introduction.....	1
II. Argument.....	3
III. Conclusion.....	11

Summary

The amendment of the Commission's Table of FM Allotments (Section 73.202(b) of the Commission's Rules) in the manner proposed by Duplin County Broadcasters and in the Commission's Notice of Proposed Rule Making would disserve the public interest by moving Channel 282 a distance of 65.3 km (40.6 miles) from a rural area into a community that would allow WBSY(FM) to serve several major population centers and an Urbanized Area. Furthermore, this proposed "move-in" of Channel 284 toward a larger metropolitan area would leave the community of Rose Hill, North Carolina, without any local radio broadcast transmission service during nighttime hours, would leave Rose Hill, North Carolina, with only one AM daytime station as its only local radio broadcast outlet of self-expression, and would generate significant loss areas. By contrast, as shown below, the proposed channel move-in would relocate Channel 284 as a Class C2 facility to an area receiving city-grade signals from 14 FM and 11 AM radio stations. For all these reasons and in light of other factors set forth below, reallocation of Channel 284 from Rose Hill, North Carolina, to Trenton, North Carolina, should be denied a first local service preference, and, accordingly, adoption of the proposed channel reallocation would be inconsistent with a fair and equitable allotment of radio broadcast frequencies among the various communities pursuant to Section 307(b) of the Communications Act. For all these reasons, the Commission should deny Duplin County Broadcasters' Petition for Rulemaking and terminate this proceeding expeditiously.

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. 95-88
Table of Allotments)	RM-8641
By Broadcast Stations)	
)	
(Rose Hill and Trenton, North)	
Carolina))	

To: **Chief, Policy and Rules Division,**
Mass Media Bureau
(Allocations Branch)

COMMENTS OF W & B MEDIA, INC.

W & B MEDIA, INC., licensee of Radio Station WSFL(FM), New Bern, North Carolina ("W & B"), by its attorneys, pursuant to Sections 1.415 and 1.420 of the Commission's Rules, hereby submits its instant Comments in opposition to the proposal contained in the Notice of Proposed Rule Making, __ FCC Rcd __, DA95-1277 (Mass Media Bureau, Policy and Rules Division, Allocations Branch, released June 19, 1995) in the above-captioned proceeding. In support whereof, it is shown as follows:

I. Introduction

In its Notice of Proposed Rule Making in this proceeding, the Mass Media Bureau solicited public comment on a proposal proffered by Duplin County Broadcasters, licensee of Radio Station WBSY(FM), Rose Hill, North Carolina. In its Petition For Rulemaking, Duplin County Broadcasters requested that the Commission reallocate Channel 284 from Rose Hill, North Carolina, to Trenton, North Carolina; that the Commission upgrade the channel from Class A to Class C2 in Trenton; and that the Commission modify the license of Radio Station

WBSY(FM) to specify operations on Channel 284C2 in Trenton, North Carolina. In its Notice of Proposed Rule Making in this proceeding, the Mass Media Bureau's Policy and Rules Division (Allocations Branch) proposed to amend the FM Table of Allotments to incorporate the changes proposed by Duplin County Broadcasters.

For the reasons set forth hereinbelow, the amendment of the Commission's Table of FM Allotments (Section 73.202(b) of the Commission's Rules) in the manner proposed by Duplin County Broadcasters and in the Commission's Notice of Proposed Rule Making would disserve the public interest by moving Channel 282 a distance of 65.3 km (40.6 miles) from a rural area into a community that would allow WBSY(FM) to serve several major population centers and an Urbanized Area. Furthermore, this proposed "move-in" of Channel 284 toward a larger metropolitan area would leave the community of Rose Hill, North Carolina, without any local radio broadcast transmission service during nighttime hours, would leave Rose Hill, North Carolina, with only one AM daytime station as its only local radio broadcast outlet of self-expression, and would generate significant loss areas. By contrast, as shown below, the proposed channel move-in would relocate Channel 284 as a Class C2 facility to an area receiving city-grade signals from 14 FM and 11 AM radio stations. For all these reasons and in light of other factors set forth below, reallocation of Channel 284 from Rose Hill, North Carolina, to Trenton, North Carolina, should be denied a first local service preference, and, accordingly, adoption of the proposed channel reallocation would be inconsistent with a fair and equitable allotment of radio broadcast frequencies among the various communities pursuant to Section 307(b) of the Communications Act. For all these reasons, the Commission should deny Duplin County Broadcasters' Petition for Rulemaking and terminate this proceeding expeditiously.

II. Argument

Under Section 1.420(i) of the Commission's Rules, a licensee is permitted to request a change in a community of license, under certain circumstances, without facing competing expressions of interest. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations To Specify a New Community of License ("Change of Community, R & O"), 4 FCC Rcd 4870 (1989), recon. granted in part (Change of Community, MO&O), 5 FCC Rcd 7094 (1990). Under these policies, the Commission assesses whether proposed change of community of license would result in a preferential arrangement of allotments. In making these assessments, the Commission compares the existing arrangement of FM channel allotments with the proposed arrangement of allotments, using the Commission's FM allotment priorities. Amendment of Section 73.202(b) (Atlantic and Glenwood, Iowa), __ FCC Rcd __, DA 95-1583 (Mass Media Bureau, Policies and Rules Division, released July 25, 1995). The allotment priorities are as follows: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982); Amendment of Section 73.202(b) (Atlantic and Glenwood, Iowa), supra.

In its Petition For Rulemaking, Duplin County Broadcasters contended that the adoption of its channel reallocation proposal would result in a preferential arrangement of channel allotments by providing Trenton, North Carolina, with its first local aural transmission service without depriving Rose Hill of its sole local aural broadcast service,

since Rose Hill would, according to Duplin County Broadcasters, continue to receive local service from daytime only AM Radio Station WEGG in Rose Hill.

In order to determine whether Duplin County Broadcasters is deserving of an allotment preference for first local aural transmission service, or, alternatively, whether Duplin County Broadcasters should be credited with all of the aural services licensed to the larger communities of Jacksonville, New Bern, Kinston, and Havelock, North Carolina¹, the Commission must assess whether the community of Trenton is "independent" from the larger communities of Jacksonville, New Bern, Kinston, and Havelock City in light of the factors enumerated in RKO General, Inc. (KFRC), 5 FCC Rcd 3222 (1990), vacated as moot pursuant to settlement, 6 FCC Rcd 1808 (1991) ("KFRC"), and Faye & Richard Tuck, 3 FCC Rcd 5374 (1988) ("Tuck").

In KFRC, and in Tuck, the Commission clarified the type of evidence that it would consider in determining whether a suburban community should be denied a first local service preference. First, the Commission examines "signal population coverage" -- i.e., the degree to which the proposed station could provide service not only to the suburban community but also to an adjacent metropolis. Second, the Commission examines the size and proximity of the suburban community relevant to the adjacent city and whether the suburban community is within the urbanized area of the city. Third, the Commission examines the interdependence of the suburban community with the central city. See KFRC, supra, 5 FCC Rcd at 3223; Tuck, supra, 3 FCC Rcd at 5377-78. See, also, Amendment of Section 73.202(b) (Elizabeth

¹ Jacksonville, North Carolina is located within the Jacksonville Urbanized Area.

City, North Carolina, and Chesapeake, Virginia), 9 FCC Rcd 3586 (Mass Media Bureau, Policy and Rules Division (1994).

For the reasons set forth below, based on these criteria, Duplin County Broadcasters' FM channel move-in proposal fails to qualify for a first local service preference under the Commission's channel allotment priorities, since all of the radio broadcast services licensed to the communities of Jacksonville, North Carolina; New Bern, North Carolina; Kinston, North Carolina, and Havelock, North Carolina, must be attributed as aural services in Trenton for channel allotment purposes. Furthermore, as shown below, the proposed Duplin County Broadcasters channel move-in will result in the residents of Rose Hill, North Carolina, being deprived of their only local nighttime radio transmission service and only local nighttime outlet of self-expression. In addition, as shown below, the proposed channel reallocation will generate significant losses of service to areas and populations presently receiving service. These factors warrant denial of the Duplin County Broadcasters' proposal.

Annexed hereto as Exhibit 1 is a Technical Exhibit by Louis R. du Treil, Sr., of the engineering consulting firm of du Treil, Lundin and Rackley, Inc., consulting engineers to W & B. As shown in the annexed Technical Exhibit, the proposed move of WBSY(FM) from Rose Hill, North Carolina, to Trenton, North Carolina, will involve a move of 65.3 mm (i.e., 40.6 miles). Furthermore, the Technical Exhibit demonstrates that Trenton, which has a population of 248 persons (based on 1990 U.S. Census Bureau data), is located in an area which has a multitude of aural broadcast services available. By contrast, the service area lost by the proposed WBSY(FM) channel move has very few existing aural broadcast services, and, if the proposed channel reallocation is adopted by the Commission, the community of

Rose Hill, North Carolina, will be left with only a daytime-only radio station and no nighttime local radio transmission service. Id.

Furthermore, as shown in Exhibit 1, infra, the Duplin County Broadcasters' channel move proposal would result in service by WBSY(FM) to a number of cities which are significantly larger in population than Trenton, including the Jacksonville, North Carolina Urbanized Area. As shown in Exhibit 1, if the Commission were to modify its Table of FM Allotments to incorporate the Duplin County Broadcasters' proposal, and if WBSY(FM) were to begin operating with the technical facilities proposed in its Petition For Rulemaking, the station will provide primary service (i.e., a 60 dBu signal) to all of the area and population in both the City of Jacksonville, North Carolina, and in the entirety of the Jacksonville, North Carolina Urbanized Area. See Exhibit 1, infra.

In addition, WBSY(FM), operating as proposed, would provide a city-grade (i.e., 70 dBu) signal to approximately 30 percent of the Jacksonville, North Carolina, Urbanized Area. Id. As noted in Exhibit 1, the population of the Jacksonville Urbanized Area (i.e., 149,838 persons) is 604 times the population of Trenton, North Carolina, and the population of the City of Jacksonville is 121 times the population of Trenton. Id. Furthermore, as shown in Exhibit 1, Kinston, North Carolina, with a population of 25,295 persons, would receive a signal from the proposed WBSY(FM) which would be greatly in excess of 60 dBu in strength. Id. As shown in Exhibit 1, Kinston's population is 102 times the size of Trenton's population. Id. New Bern, North Carolina, with a population of 17,363 persons, will receive a signal strength of greater than 70 dBu from WBSY(FM) operating as proposed. Id. New Bern's population is thus 70 times larger than that of Trenton. Havelock, North Carolina,

with a population of 20,268 persons, has 82 times the population of Trenton and lies well within the predicted WBSY(FM) 60 dBu contour. Id.

Thus, based on the "signal population coverage" criterion established in KFRC and in Tuck, supra, the proposed operation of WBSY(FM) will be more than capable of providing service, not only to Trenton, North Carolina, but to the other much larger communities of Jacksonville, Kinston, New Bern, and Havelock, North Carolina, and to the much larger Jacksonville, North Carolina Urbanized Area.

In addition, the size of Trenton and its proximity to the cities of Jacksonville, Kinston, New Bern, and Havelock, North Carolina also militate in favor of a determination that the City of Trenton is not "independent" from these larger communities and from the Jacksonville Urbanized Area. As shown above, these factors are assessed by the Commission in light of the criteria established in KFRC and in Tuck. More specifically, as shown in Exhibit 1, infra, the distance from the proposed Trenton reference point for WBSY(FM) to the City of Jacksonville is only 35.2 km (i.e., 21.9 miles). The distance from the Trenton reference point to Kinston, North Carolina, is only 29.3 Km (18.2 miles); the distance from the Trenton reference point to New Bern, North Carolina, is only 29.8 km (19.5 miles); and the distance from the Trenton reference point to Havelock is only 47.3 km (29.4 miles). These relatively short distances make it evident that Trenton is in close proximity to the other cities listed above. These distances should be compared to the 65.3 km (40.6 miles) move proposed for WBSY(FM) by Duplin County Broadcasters. See Exhibit 1, infra. Furthermore, as noted above, the population of the Jacksonville, North Carolina Urbanized Area is 604 times the population of Trenton; the population of the City of Jacksonville, North Carolina is 121 times

the population of Trenton; the population of Kinston is 102 times the size of the population of Trenton; and the population of Havelock, North Carolina, is 82 times the population size of Trenton.

As noted above, under the third criterion established in KFRC and in Tuck, the Commission examines the interdependence of the suburban community with the central city as one of the criteria used in determining whether a suburban community should be denied a first local service preference. Under this third criterion in KFRC and in Tuck, the Commission has previously found the following eight factors to be relevant in assessing the interdependence of a suburban community and a larger nearby community:

"(1) [T]he extent to which community residents work in the larger metropolitan area rather than the specified [suburban] community; (2) whether the smaller community has its own newspaper or other media that covers the community's local needs and interests; (3) whether the community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller community has its own telephone book provided by the local telephone company or zip code; (6) whether the community has its own commercial establishments, health facilities, and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising market; and (8) the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools and libraries."

KFRC, supra, 5 FCC Rcd at 3223; Tuck, supra, 3 FCC Rcd at 5378.

Annexed hereto as Exhibit 2 is the Declaration of Bruce T. Simel, General Manager of Radio Station WSFL-FM. Mr. Simel notes that he is a resident of New Bern, North Carolina, and has lived in the community since February 1994 and is quite familiar with the New Bern-Jacksonville-Kinston-Havelock, North Carolina metropolitan area. In addition,

Mr. Simel has recently conducted extensive research into the population and demographics of Trenton, North Carolina, and has consulted with the City Clerk of Trenton and with various residents and leaders in that community. Based on that research and those discussions, Mr. Simel has ascertained the following facts:

- a. Trenton has a population of only 289 persons. Of those persons, approximately 25 percent of the adult population is retired. Of the 75 percent of the Trenton adult population that is in the workforce, 50 percent of that remaining population commutes from Trenton to one or more of the communities of Jacksonville, New Bern, Kinston and/or other communities other than Trenton.
- b. Trenton does not have its own daily newspaper; however, the community is served by the Jones County Post, which is a weekly newspaper serving the entirety of Jones County, North Carolina (which includes Trenton). Other than the Jones County Post, which may or may not cover news specifically relating to Trenton, Trenton has no newspaper or other media located within Trenton that cover Trenton's local needs and interests. Rather, Trenton's local news and interests are, to the extent necessary, covered by media outside of Trenton, and in neighboring communities, such as Jacksonville, New Bern, Kinston and Havelock.
- c. Community leaders and residents of Trenton perceive Trenton as being an integral part of the larger Jacksonville-New Bern-Kinston-Havelock metropolitan area, rather than as being separate from it.
- d. Trenton has no government or elected officials except for an elected Mayor, an elected Town Board, and an appointed Town Clerk.
- e. Trenton, North Carolina, does not have its own telephone directory provided by the local telephone company; rather, Trenton telephone listings are incorporated into the local telephone directory for New Bern, North Carolina. Trenton does have a zip code; however, that zip code serves not only mail for Trenton but also mail for other portions of Jones County, North Carolina.
- f. Trenton has some limited number of commercial establishments (e.g., one branch of a large bank, a restaurant, an automobile dealer, a convenience store, a game room, a drug store, a hardware store and a tire and feed store, as well as a handful of attorneys and/or accountants, and a hair stylist). However, this represents the extent of commercial establishments within Trenton. Trenton does not have its own health facilities, but, rather, relies on the health facilities provided through the auspices of Jones County, North Carolina. Trenton does

not have its own transportation systems; rather, it must rely on transportation systems serving other nearby communities.

g. Trenton and the communities of Jacksonville, North Carolina; New Bern, North Carolina; Kinston, North Carolina; and Havelock, North Carolina, are part of the same advertising market. In this regard, to the extent that the limited number of commercial establishments in Trenton wish to advertise, they typically utilize advertisements in newspapers published in Jacksonville, New Bern or Kinston, North Carolina, or in the Jones County Post.

h. Trenton, North Carolina, does not have its own municipal police department, fire department, public utilities, or public libraries. Rather, Trenton utilizes the services of the Jones County Sheriff's Department for protection and utilizes a volunteer fire department. All of the public schools in Trenton are under the auspices of Jones County, North Carolina, as is the public library in Trenton.

See Exhibit 2, infra.

Based on all the foregoing, it is clear that, under the eight factors set forth in KFRC and Tuck for assessing the interdependence of a suburban community and a larger nearby community, Trenton, North Carolina, is not an independent community, but, rather, is interdependent with the communities of Jacksonville, New Bern, Kinston and Havelock, North Carolina, and with other communities in and around Jones County, North Carolina.

In short, based on the three criteria set forth in KFRC and in Tuck, supra, Trenton must be denied a first local service preference in connection with the channel reallocation proposal of Duplin County Broadcasters, since all of the other radio stations licensed to communities within the Jacksonville, North Carolina Urbanized Area and in communities of New Bern, Kinston and Havelock must be attributed to be broadcast services in Trenton itself. Accordingly, the rulemaking proposal of Duplin County Broadcasters fails to qualify for any

of the Commission's channel allotment priorities, as set forth in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

Indeed, as shown in the annexed Technical Exhibit (Exhibit 1, infra), the proposed channel move to Trenton will result in a significant area and population that will lose existing aural broadcast reception service and which will lose its only nighttime local radio transmission service. This fact, coupled with the lack of any allotment priority for the channel move proposal, warrants summary denial of Duplin County Broadcasters' proposal. In this regard, with respect to evaluating proposals to change community of license, the Commission has stated:

"The public has a legitimate expectation that existing service will continue, and this expectation is a factor which we must consider independently against the service benefits that may result from reallocating a channel from one community to another"

See Modification of FM License (on reconsideration), 5 FCC Rcd 7094, 7097 (1990); see also Amendment of Section 73.202(b) (Eatonton and Sandy Springs, Georgia; and Anniston and Lineville, Alabama), 6 FCC Rcd 6580 (1991), application for review pending.

III. Conclusion

Based on all the foregoing, the public interest, convenience and necessity would be disserved by amendment of Section 73.202(b) of the Commission's Rules (Table of FM Allotments) to incorporate the channel change proposed by Duplin County Broadcasters and proposed in the Commission's Notice of Proposed Rule Making in this proceeding. As shown above, the proposed channel move from Rose Hill, North Carolina, to Trenton, North

Carolina, would not result in a fair, equitable and efficient distribution of radio frequencies, consistent with Section 307(b) of the Communications Act.

WHEREFORE, it is respectfully requested that the Commission deny Duplin County Broadcasters' Petition For Rulemaking and expeditiously terminate this proceeding without any amendment of the Commission's Rules.

Respectfully submitted

W & B MEDIA, INC.

By:


Irving Gastfreund

Kaye, Scholer, Fierman, Hays & Handler
901 15th Street, N.W., Suite 1100
Washington, D.C. 20005
(202) 682-3526

Its Attorneys

August 10, 1995

Exhibit 1

du Treil, Lundin & Rackley, Inc.

A Subsidiary of A. D. Ring, P.C.

**TECHNICAL EXHIBIT
SUPPORTING COMMENTS IN
MM DOCKET NO. 95-88
PREPARED FOR
W & B MEDIA, INC.
STATION WSFL-FM
NEW BERN, NORTH CAROLINA**

August 8, 1995

du Treil, Lundin & Rackley, Inc.

A Subsidiary of A. D. Ring, P.C.

**TECHNICAL EXHIBIT
SUPPORTING COMMENTS IN
MM DOCKET NO. 95-88
PREPARED FOR
W & B MEDIA, INC.
STATION WSFL-FM
NEW BERN, NORTH CAROLINA**

Table of Contents

Technical Narrative

- | | |
|-----------------|---|
| Figure 1 | Map Showing 70 dBu and 60 dBu Contours
for WBSY as Existing Class A and as
Proposed Class C2 |
| Figure 2 | Map Showing Propose WBSY Class C2
Coverage of Jacksonville, NC Urbanized
Area |
| Figure 3 | Comparison of Aural Broadcast Services
Available to Rose Hill and Trenton, NC |
| Figure 4 | Tabulation of Stations Providing
Service to Rose Hill or Trenton |

du Treil, Lundin & Rackley, Inc.

A Subsidiary of A. D. Ring, P.C.

TECHNICAL EXHIBIT
SUPPORTING COMMENTS IN
MM DOCKET NO. 95-88
PREPARED FOR
W & B MEDIA, INC.
STATION WSFL-FM
NEW BERN, NORTH CAROLINA

Technical Narrative

This technical exhibit has been prepared on behalf of W & B Media, Inc., licensee of FM broadcast station WSFL-FM New Bern, NC in support of comments in the matter of amendment of Section 73.202(b) of the FCC rules, in Rule Making RM-8641, MM Docket No. 95-88. In the rule making it is proposed to change the allotment of channel 284 from Rose Hill to Trenton, North Carolina and to upgrade the channel from Class A to Class C2. The channel is currently employed by Station WBSY Rose Hill.

The proposed 65.3 kilometer (40.6 miles) move by WBSY will bring a new station to Trenton, a very small community of 248 persons, located in an area which has many services available. The 60 dBu service lost by the WBSY move amounts to 33,848 persons in an area of 2,055 square kilometers. Rose Hill will have no local nighttime aural service available, as it will be left with a daytime only AM station. In addition, the use of the proposed upgraded channel provides service to the substantially larger cities, including the Jacksonville, NC Urbanized Area, all of which have numerous local services. Neither Rose Hill nor Trenton are located in urbanized areas.

du Treil, Lundin & Rackley, Inc.

A Subsidiary of A. D. Ring, P.C.

Page 2 of 3
New Bern, North Carolina

The attached Figure 1 is a map which shows the 70 dBu and 60 dBu contours for station WBSY Rose Hill, NC. For comparison purposes, the coverage contours for the existing operation are assumed to be maximum Class A facilities, even though WBSY operates with lesser facilities. An allocation study shows that WBSY can operate from its licensed site with effective radiated power of 6 kilowatts and antenna height above average terrain of 100 meters in full compliance with FCC separation requirements.

Using the reference coordinates for channel 284C1 at Trenton, NC and maximum Class C2 facilities (50 KW, 150 M), the predicted 70 dBu and 60 dBu contours have been determined and are shown on Figure 1. Jacksonville, NC with population of 30,013 persons, 121 times the population of Trenton, is located 35.2 kilometers (21.9 miles) from proposed WBSY and will receive a signal intensity in excess of 60 dBu. The WBSY proposal will provide a 70 dBu signal to approximately 30 percent of the Jacksonville, NC Urbanized Area, and a 60 dBu signal to the entire Jacksonville Urbanized Area, which contains 149,838 persons. The Urbanized Area population of Jacksonville is 604 times the population of Trenton. The map, Figure 2, shows the Jacksonville, NC Urbanized Area and coverage by the proposal of WBSY. The urbanized area shown is taken from the 1990 Census of Population and Housing for North Carolina, published by the U.S. Department of Commerce.

Kinston, NC is located 29.3 kilometers (18.2 miles) northwest of the Trenton reference point, and has population of 25,295 persons. Kinston is 102 times the size of Trenton, and will receive a signal greatly in excess of 60 dBu. New Bern, NC with population of 17,363 will receive

du Treil, Lundin & Rackley, Inc.

A Subsidiary of A. D. Ring, P.C.

Page 3 of 3
New Bern, North Carolina

greater than 70 dBu from WBSY as proposed. New Bern is 70 times larger than Trenton, and located 29.8 kilometers (18.5 miles) east-northeast of the reference coordinates. Havelock City, NC with population of 20,268 is 82 times larger than Trenton and well within the predicted WBSY 60 dBu contour. It is located 47.3 kilometers (29.4 miles) southeast of Trenton.

Figure 3 compares the operation of WBSY at Rose Hill and Trenton, listing the number of other services available to the cities and to the coverage areas. If WBSY does move to Trenton, from the standpoint of local transmission service, Rose Hill is left with a daytime only AM station, and no nighttime local service. From a reception standpoint, Rose Hill currently has only 2 FM and 3 daytime only AM stations providing the city with a principal community signal (i.e. 70 dBu for FM, 5 mV/m for AM), excluding the WBSY signal. On the other hand, from a reception standpoint, Trenton enjoys the premium principal community signal (i.e. 70 dBu for FM, 5 mV/m for AM) from seven existing FM stations.

The availability of other service is also represented by the number of stations which have transmitter sites located within the predicted 60 dBu contour. Within the WBSY 60 dBu contour there is one FM and 3 AM (one fulltime, two daytime) stations. Within the predicted WBSY Class C2 60 dBu contours at Trenton, there are 14 FM and 11 AM (10 fulltime, one daytime) stations. The move of WBSY from Rose Hill to Trenton is obviously designed to abandon an area with a small number of other aural services to an area of numerous other services.

du Treil, Lundin & Rackley, Inc.

A Subsidiary of A. D. Ring, P.C.

Page 4 of 3
New Bern, North Carolina

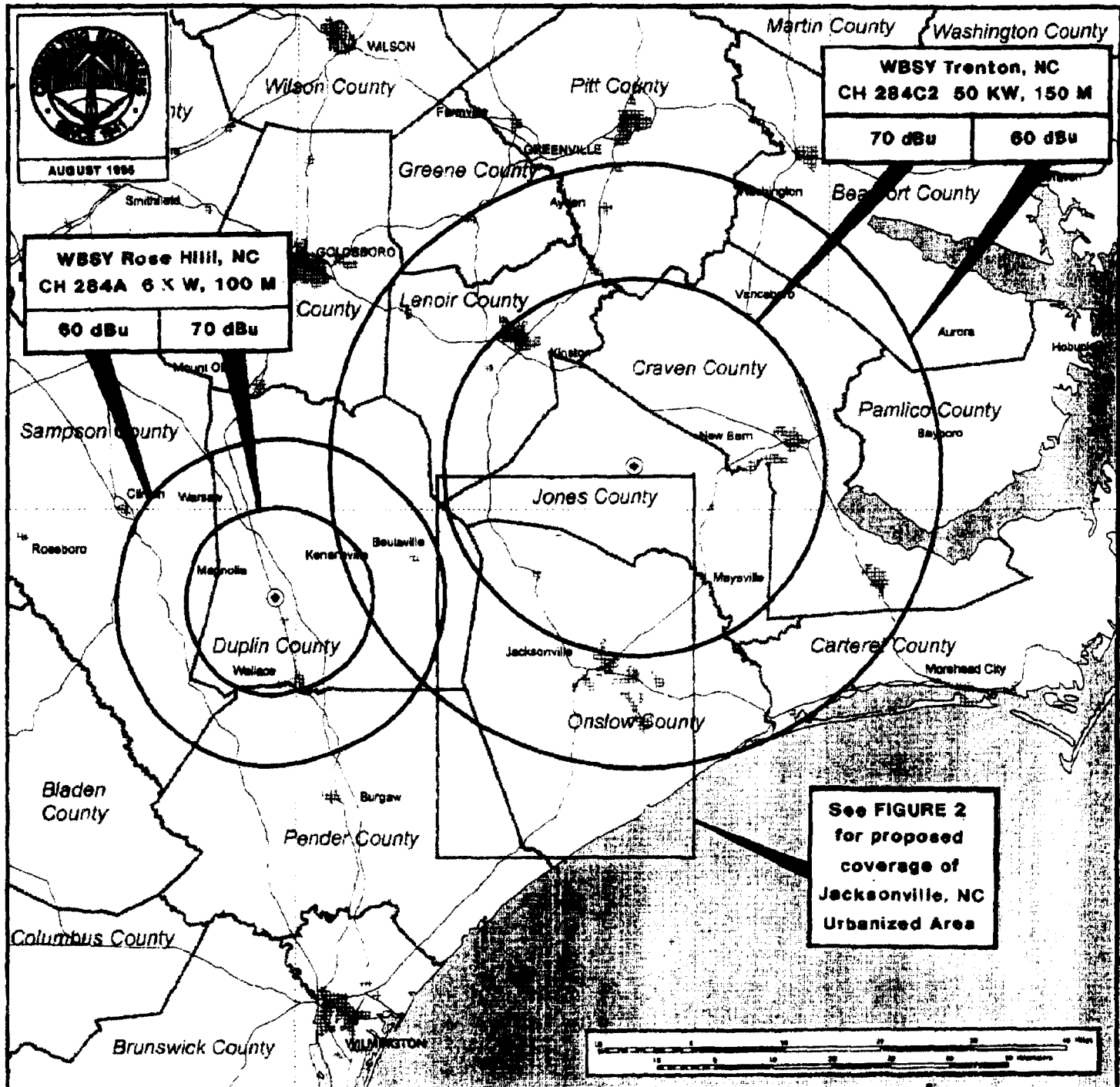
The proposal in RM-8641 simply moves WBSY from a community and area which has few aural services to an area which has an abundance of service.



Louis R. du Treil, Sr.
du Treil, Lundin & Rackley, Inc.
240 North Washington Blvd., Suite 700
Sarasota, Florida
(941) 366-2611

August 9, 1995

Figure 1



COVERAGE COMPARISON

Prepared for
W & B MEDIA, INC.
NEW BERN, N.C.

du Treil, Lundin & Rackley, Inc. Sarasota, Florida